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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/042,899	01/08/2002	Joe Freeman Britt JR.	04676.P020	5830

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EXAMINER
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TARAE, CATHERINE MICHELLE

ART UNIT	PAPER NUMBER
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3623

MAIL DATE	DELIVERY MODE
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05/29/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/042,899	<b>Applicant(s)</b> BRITT ET AL.	
	<b>Examiner</b> C. Michelle Tarae	<b>Art Unit</b> 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) 16-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The following is a Non-Final Office Action in response to the communication received on February 6, 2008.

No claims have been amended. Claims 10-15 have been previously cancelled and claims 16-20 previously withdrawn from further consideration.

Accordingly, claims 1-9 are rejected below.

#### ***Response to Amendments***

2. No claims have been amended.

#### ***Response to Arguments***

3. Applicant's arguments have been fully considered and are found persuasive. In the Remarks, Applicant argues that Henrickson et al. does not disclose an attribute *provided by the first user* as a criteria for identifying recipients of said inquiry.

In response to the argument, Examiner has updated the rejection.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrickson et al. (U.S. 6,754,470).

As per claim 1, Hendrickson et al. discloses a method comprising:

sending a request for a return signal into a wireless network to a plurality of users of said wireless network having data processing devices (col. 7, lines 29-33, 53-57 and 64-67; col. 8, lines 12-15; A wireless network monitors wireless activity from (therefore, requests and receives signals from) devices of wireless users.);

receiving from said wireless network respective return signals from each of said plurality of users, each of said return signals containing information describing its respective user (col. 8, lines 12-30; User data is received via the wireless network.);

receiving from said wireless network an inquiry, said inquiry having predetermined responses associated therewith, and receiving from said wireless network an attribute as a criteria for identifying recipients of said inquiry (col. 11, lines 36-40; col. 15, lines 8-16; col. 16, lines 15-16; A questionnaire may be invoked to prompt responses from wireless users. Also, emails may be exchanged among wireless panel members. It is known in the art that an email may be generated by one user and distributed to multiple users. See also col. 7, lines 12-24, where panel

members may be selected/identified based on a number of criteria. See also col. 7, lines 1-11, where data gathering software invokes an “inquiry” into the events/activities of mobile device users with predetermined responses such as applications and features used as well as location of the mobile device when such applications/features are in use.);

automatically selecting a group of users from said plurality of users, each user of said group of users having said attribute, said selecting including analyzing said respective information of each of said plurality of users, said attribute being identifiable from said respective information of each of said selected group of users and forwarding said inquiry into said wireless network to said group of users (col. 7, lines 12-24; col. 15, lines 8-16);

receiving from said wireless network responses from one or more users in said group of users and forwarding said responses into said network to said first user (col. 15, lines 8-16; col. 16, lines 15-16; Emails may be exchanged among wireless panel members. It is known in the art that an email may be generated by an initial user, distributed to multiple users, whose responses are then sent back to the initial user.).

Hendrickson et al. does not expressly disclose that the inquiry is generated by or that the attribute is provided by a first user. However, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive

material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); *MPEP*, 2106.

Further, it would have been obvious to a person of ordinary skill in the art for a first user of the network to generate an inquiry and provide the attribute because doing so provides a predictable result since indicating whether an inquiry and attribute for identification is generated automatically or by a user shares the same result of a generated inquiry and provided attribute.

As per claim 2, Hendrickson et al. discloses the method as in claim 1 wherein said attribute is a specific geographical location (col. 11, lines 45-53).

As per claim 3, Hendrickson et al. discloses the method as in claim 1 wherein said attribute is a specific distance from said first user (col. 7, lines 1-11).

As per claim 4, Hendrickson et al. discloses the method as in claim 1 wherein said attribute includes a specific age (col. 11, lines 34-44).

As per claim 5, Hendrickson et al. discloses the method as in claim 1 wherein said attribute is a specific occupation (col. 11, lines 34-44).

As per claim 6, Hendrickson et al. discloses the method as in claim 1 wherein said attribute is a specific sex (col. 11, lines 34-44).

As per claim 7, Hendrickson et al. discloses the method as in claim 1 wherein said information includes a home address of its respective user (col. 11, lines 34-44).

6. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrickson et al. (U.S. 6,754,470), as applied above, and De Vries (U.S. 6,968,179).

As per claim 8, Hendrickson et al. does not expressly disclose receiving from said wireless network a signal from said first user, said signal identifying users of said wireless network who are on said first user's buddy list; adding to said respective information of each of those of said plurality of users who are on said first user's buddy list that he/she has been included in said first user's buddy list.

De Vries discloses receiving from said wireless network a signal from said first user, said signal identifying users of said wireless network who are on said first user's buddy list (col. 5, line 67-col. 6, line 3);

adding to said respective information of each of those of said plurality of users who are on said first user's buddy list that he/she has been included in said first user's buddy list (col. 7, lines 33-43; Users may be grouped/added into different buddy lists based on different attributes.).

Hendrickson et al. and De Vries are analogous in that each facilitates communication via a wireless network and tracks certain wireless activities of users. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Hendrickson et al. to add users to a user's buddy list because doing so enables users to communicate with and track certain wireless activities of a specifically defined group of users they're interested in, thereby enhancing the wireless activities tracking features of the system.

As per claim 9, Hendrickson et al. does not expressly disclose receiving from said wireless network a signal from said first user, said signal identifying users of said wireless network who are listed in said first user's address book; adding to said respective information of each of those of said plurality of users who are listed in said first user's address book that he/she has been included in said first user's address book.

De Vries discloses receiving from said wireless network a signal from said first user, said signal identifying users of said wireless network who are listed in said first user's address book (col. 5, line 67-col. 6, line 3);

adding to said respective information of each of those of said plurality of users who are listed in said first user's address book that he/she has been included in said first user's address book (col. 7, lines 33-43; Users may be grouped/added into different buddy lists based on different attributes.).

Hendrickson et al. and De Vries are analogous in that each facilitates communication via a wireless network and tracks certain wireless activities of users. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Hendrickson et al. to add users to a user's address book because doing so enables users to communicate with and track certain wireless activities of a specifically defined group of users they're interested in, thereby enhancing the wireless activities tracking features of the system.



***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Tarae whose telephone number is 571-272-6727. The examiner can normally be reached Monday – Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Van Doren, can be reached at 571-272-6737.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/C. Michelle Tarae/  
Primary Examiner, Art Unit 3623

May 26, 2008